

REMARKSI. Rejections Based on 35 U.S.C. §102

In the Office Action, the Examiner has rejected Claims 1, 6, 7 and 9 under 35 U.S.C. §102(b) as being anticipated by Skolnick. Applicant has cancelled Claim 7 without prejudice or disclaimer. With respect to the remaining claims subject to this rejection, Applicant respectfully submits that these claims, as amended, are not anticipated by Skolnick.

Applicant has amended Claim 1, upon which Claims 6 and 9 depend, to more patentably distinguish Claims 1, 6 and 9 over the prior art. In this regard, Applicant has added to Claim 1 the feature that the first and second layers of acrylic latex are coated "directly" to the metalized film so that the metalized film is sandwiched directly between the two layers of acrylic latex with each side of the metalized film in direct contact with the acrylic latex. This feature was present in Figures 1 and 4, among other places in the Specification, and thus this amendment is supported by the Specification. Applicant has also added to Claim 1 the feature that the metalized film is substantially light impermeable having an optical rating of between approximately 1.5 and 4.0. This feature was present in original Claim 7, among other places in the

Specification, and is added here to more patentably distinguish Claim 1 over the prior art.

Applicant respectfully submits that Skolnick requires the use of at least one additional adhesive layer coupled to at least one side of the metalized film (see Figures 1-5 and Column 2 Lines 38-51). Examiner states, in the Office Action dated August 1, 2005 that Skolnick's drapery comprises "in order, a first fabric layer, a first adhesive layer, a metal layer, a film layer, a second adhesive layer, and a second fabric layer" (see Page 4, paragraph 9). Applicant directly coats the metalized film with an acrylic latex, eliminating the need for an additional layer of adhesive which would add significantly to the weight and cost of the drapery. In addition, applicant's metalized film is substantially light impermeable, having an optical rating of between approximately 1.5 and 4.0 as opposed to the light permeable solar control film of Skolnick which has a "visible light transmission level which permits the transmission of visible light" (see Claim 1).

Applicant respectfully submits that these claims, as amended, are not anticipated by Skolnick and are therefore in condition for allowance. Such action is earnestly solicited.

II. Rejections Based on 35 U.S.C. §102/103

The examiner has rejected Claim 7 as being anticipated by, or in the alternative, as being unpatentable over Skolnick. Applicant has cancelled Claim 7 without prejudice or disclaimer. This rejection should now be obviated.

III. Rejections Based on 35 U.S.C. §103

a. Claims 4, 5, 8, 19-23, 29, 32 and 33

The examiner has rejected Claims 4, 5, 8, 19-23, 29, 32 and 33 as being unpatentable over Skolnick. In addition, the examiner has maintained from section 15 of the previous Office Action the rejection of Claims 19-22, 29, 32 and 33 as being unpatentable over US Re. 34,816 issued to Poettgen. Applicant has cancelled Claims 19-22 and Claim 33 without prejudice or disclaimer. With respect to the remaining claims subject to this rejection, Applicant respectfully submits that these claims, as amended, are not unpatentable over Poettgen or Skolnick.

Applicant has amended Claim 1, upon which Claims 4, 5 and 8 depend, Claim 23, upon which Claim 25 depends and Claim 29, upon which Claim 32 depends to more patentably distinguish Claims 1, 4, 5, 8, 23, 29 and 32 over the prior art. In this regard, Applicant has added to Claims 1 and 23 the feature that the first and second layers of acrylic latex are coated "directly" to the metalized film so that

the metalized film is sandwiched directly between the two layers of acrylic latex with each side of the metalized film in direct contact with the acrylic latex. This feature was present in Figures 1 and 4, among other places in the Specification, and thus this amendment is supported by the Specification. Applicant has also added to Claims 1, 23 and 29 the feature that the metalized film is substantially light impermeable and has an optical rating of between approximately 1.5 and 4.0. This feature was present in original Claim 7, among other places in the Specification, and is added here to more patentably distinguish the claims over the prior art. Applicant has also added to method Claims 23 and 29 the feature of specifying that the method is for "preventing transmission of visible light through a drapery" in order to more patentably distinguish Applicant's invention from the prior art. To that end, the feature of metalizing the film with a "substantially light impermeable metal having an optical rating of between approximately 1.5 and 4.0" has been added as one of the steps of the method of both Claims 23 and 29. This feature was present in original Claim 7, as well as other places in the Specification and thus this amendment is supported by the Specification.

For the same reasons that newly amended Claim 1 is not anticipated by Skolnick, Claims 4, 5 and 8 are not unpatentable in view of Skolnick. Skolnick is directed to a drapery for transmitting light threrethrough whereas Applicant's invention is directed to a drapery for preventing the passage of light through the drapery. Any modification to Skolnick to block the transmission of light would render the patent unsatisfactory for its intended purpose. With respect to Claim 8 specifically, Skolnick teaches that the thickness of the metalized film is dependent on the reduction in light transmission required (see Column 3, Lines 9-17). Examiner quoted Skolnick as stating, "This generally results in a highly reflective metallic layer on the order of, but not limited to, 10-141 Angstroms thick." (see Column 3, Lines 17-19). With one Angstrom equal to 10^{-10} meters, the range listed in Skolnick is 1.0×10^{-9} meters to 1.41×10^{-8} meters, whereas Applicant's range is 2.0×10^{-7} meters to 3.0×10^{-5} meters. Skolnick specifically limits his range to "on the order of", whereas applicant's metalized film is greater than an order of magnitude thicker than Skolnick's film. When interpreting a claim term which is ambiguous, one must look to the specification for the meaning ascribed to that term by the inventor. *In re Weiss*, 26 USPQ2d 1885. In this

case, Skolnick specifically states that the range is "on the order of" 1-141 Angstroms thick, which is more than an order of magnitude thinner than the thickness of applicant's metalized film. Applicant respectfully submits that Claims 4, 5 and 8 which depend on newly amended Claim 1, are not unpatentable over Skolnick.

Examiner stated that previously presented Claim 29, upon which Claim 32 depends, did not include a positive recitation to acrylic layers and did not exclude the presence of Skolnick's adhesive layers. Newly amended Claim 29, however, does include a positive recitation to acrylic layers which excludes the presence of Skolnick's adhesive layers by requiring that the acrylic be coated "directly" to the metalized film so as to be in "direct contact" with the metalized film, thus negating the possibility of an intermediary layer of adhesive. In addition, Examiner reaffirms the rejection of Claims 29 and 32, which depends on Claim 29, from the previous Office Action as being unpatentable over Poettgen. Newly amended claim 29 includes the feature of specifying that the method is for "preventing transmission of visible light" which is not analogous to a surgical drape for reducing heat loss in human patients (see Abstract). Poettgen's invention does

not solve the problem that is solved by Applicant's invention, and is therefore nonanalogous art.

Examiner argues that it would have been obvious to modify Skolnick to provide a double-sided metalized film in order to further enhance the thermal and blackout properties of the drapery. However, if a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. In re Gordon, 733 F.2d 900 (Fed. Cir. 1984). If the Skolnick window covering were modified to be a blackout drapery it would render the invention unsatisfactory for its intended purpose of permitting the transmission of visible light through the drapery fabric. The modification suggested by the Examiner would, therefore, render the prior art unsatisfactory for its intended purpose. Applicant respectfully submits that Claim 29, as amended, and Claim 32, which depends on Claim 29, is not unpatentable over Skolnick.

Accordingly, for the foregoing reasons, Applicant respectfully submits that Claims 4, 5, 8, 23, 29, and 32 are not obvious in light of Poettgen or Skolnick.

b. Claims 3 and 25

The examiner has rejected Claims 3 and 25 as being unpatentable over Skolnick in view of McCann et al. and/or Kielbania, Jr. Applicant has amended Claim 1, upon which Claim 3 depends, and Claim 23, upon which Claim 25 depends, to more patentably distinguish Claims 1, 3, 23 and 25 over the prior art. For the same reasons that newly amended Claims 1 and 23 are not obvious in light of Skolnick, Claims 3 and 25 are not obvious in light of Skolnick in view of McCann et al. and/or Kielbania, Jr.

Accordingly, for the foregoing reasons, Applicant respectfully submits that Claims 3 and 25 are not obvious in light of the cited combination of Skolnick in view of McCann et al. and Kielbania, Jr.

IV. Conclusion

Applicant respectfully submits that this Amendment, in view of the Remarks offered herein, is fully responsive to all aspects of the objections and rejections tendered by the Examiner in the Office Action. None of the cited prior art, nor any combination thereof, discloses a metalized film sandwiched between two layers of acrylic latex that are directly coated to the metalized film so as to be in direct contact with the metalized film and having a metalized film with having an optical rating of between approximately 1.5 and 4.0 in order for it to be

substantially light impermeable. For all of the foregoing reasons, the Applicant respectfully asserts that all claims are patentable over the cited prior art and respectfully requests that these claims be allowed.

If there are any fees incurred by this Amendment Letter, please deduct them from our Deposit Account No. 23-0830.

Respectfully submitted;



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